

113TH CONGRESS  
1ST SESSION

# H. R. 3020

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity under group and individual health plans and group and individual health insurance coverage for the provision of benefits for prosthetics and custom orthotics and benefits for other medical and surgical services.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2013

Mr. DENT (for himself and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity under group and individual health plans and group and individual health insurance coverage for the provision of benefits for prosthetics and custom orthotics and benefits for other medical and surgical services.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1     **SECTION 1. SHORT TITLE.**

2         This Act may be cited as the “Insurance Fairness  
3         for Amputees Act”.

4     **SEC. 2. FINDINGS AND PURPOSE.**

5         (a) FINDINGS.—Congress makes the following find-  
6         ings:

7                 (1) There are more than 1,700,000 people in  
8         the United States living with limb loss, many of  
9         whom are appropriate candidates for prosthetic care.  
10         A comparable number experience trauma, illness, or  
11         disability that results in musculoskeletal or neuromuscular  
12         impairment of the limbs, back, and neck  
13         requiring the use of orthotic care.

14                 (2) Every year, there are more than 130,000  
15         people in the United States who undergo amputation  
16         procedures.

17                 (3) In addition, United States military personnel  
18         serving in Iraq and Afghanistan and around  
19         the world have sustained traumatic injuries resulting  
20         in amputation and musculoskeletal or neuromuscular  
21         injury.

22                 (4) The number of amputations in the United  
23         States is projected to increase in the years ahead  
24         due to the rising incidence of diabetes and other  
25         chronic illness.

1                         (5) Those experiencing limb loss and limb dys-  
2                         function can and want to regain their lives as pro-  
3                         ductive members of society, and prosthetic and  
4                         orthotic care often enables amputees and others with  
5                         orthopedic impairments to continue working and liv-  
6                         ing productive lives.

7                         (6) Insurance companies often restrict coverage  
8                         for prosthetic and orthotic devices and related serv-  
9                         ices over an individual's lifetime, which shifts costs  
10                         onto individuals and consequently to the Medicare  
11                         and Medicaid programs.

12                         (7) Twenty States have addressed this problem  
13                         and have prosthetic or orthotic parity legislation,  
14                         which also is being considered actively in other  
15                         States.

16                         (8) The States in which prosthetic or orthotic  
17                         fairness in coverage laws have been enacted have  
18                         found there to be minimal or no increases in insur-  
19                         ance premiums and have reduced Medicare and  
20                         Medicaid costs.

21                         (9) Coverage of orthotic and prosthetic devices  
22                         and related services is only appropriate for individ-  
23                         uals missing a limb or having an orthopedic condi-  
24                         tion in need of treatment. Therefore, a fixed popu-

1 lation of individuals are candidates for these devices  
2 and related services.

3 (10) Appropriate and timely treatment involv-  
4 ing prosthetic and orthotic devices and related serv-  
5 ices allow people to regain health function, pre-  
6 existing work, and independent living.

7 (11) Prosthetic and orthotic devices and related  
8 services are a distinct and separate benefit from the  
9 durable medical equipment benefit, but this distinc-  
10 tion often is not recognized as insurers typically  
11 combine these benefits under a combined limit.

12 (12) The Patient Protection and Affordable  
13 Care Act (Public Law 111–148) and the Health  
14 Care and Education Reconciliation Act (Public Law  
15 111–152), include rehabilitative and habilitative  
16 services as an essential health benefit, which legisla-  
17 tive history shows is intended to cover prosthetic and  
18 orthotic devices and related services.

19 (13) The Institute of Medicine concluded that  
20 prosthetic and orthotic devices and related services  
21 are covered under a typical employer plan.

22 (14) However, while lifetime and annual dollar  
23 limitations on essential health benefits are prohibited  
24 under the Patient Protection and Affordable Care  
25 Act (Public Law 111–148) and the Health Care and

1 Education Reconciliation Act (Public Law 111–152),  
2 other techniques to minimize or eliminate coverage  
3 continue to be used across the country and are deny-  
4 ing individuals access to medically necessary pros-  
5 thetic and orthotic devices and related services.

6 (b) PURPOSE.—It is the purpose of this Act to re-  
7 quire that each group and individual health plan and indi-  
8 vidual and group health insurance coverage that provides  
9 medical and surgical benefits and also provides coverage  
10 for prosthetics or custom orthotics (or both), provide such  
11 coverage under terms and conditions that are no less fa-  
12 vorable than the terms and conditions under which med-  
13 ical and surgical benefits are provided under such plan.

14 **SEC. 3. PROSTHETICS AND CUSTOM ORTHOTICS FAIRNESS**

15 **IN COVERAGE.**

16 (a) ERISA.—

17 (1) IN GENERAL.—Subpart B of part 7 of sub-  
18 title B of title I of the Employee Retirement Income  
19 Security Act of 1974 (29 U.S.C. 1185 et seq.) is  
20 amended by adding at the end the following:

21 **“SEC. 716. PROSTHETICS AND CUSTOM ORTHOTICS FAIR-**

22 **NESS IN COVERAGE.**

23 “(a) IN GENERAL.—In the case of a group health  
24 plan (or health insurance coverage offered in connection  
25 with a group health plan) that provides medical and sur-

1 gical benefits and also provides benefits for prosthetics or  
2 custom orthotics (as defined under paragraphs (1) and (2)  
3 of subsection (e)) (or both)—

4           “(1) such benefits for prosthetics or custom  
5 orthotics (or both) under the plan (or coverage) shall  
6 be provided under terms and conditions that are no  
7 less favorable than the terms and conditions applica-  
8 ble to substantially all medical and surgical benefits  
9 provided under the plan (or coverage);

10          “(2) such benefits for prosthetics or custom  
11 orthotics (or both) under the plan (or coverage) may  
12 not be subject to separate financial requirements (as  
13 defined in subsection (d)(3)) that are applicable only  
14 with respect to such benefits, and any financial re-  
15 quirements applicable to such benefits shall be no  
16 more restrictive than the financial requirements ap-  
17 plicable to substantially all medical and surgical ben-  
18 efits provided under the plan (or coverage); and

19          “(3) any treatment limitations (as defined in  
20 subsection (d)(4)) applicable to such benefits for  
21 prosthetics or custom orthotics (or both) under the  
22 plan (or coverage) may not be more restrictive than  
23 the treatment limitations applicable to substantially  
24 all medical and surgical benefits provided under the  
25 plan (or coverage).

1       “(b) PATIENT ACCESS.—A group health plan (or  
2 health insurance coverage offered in connection with a  
3 group health plan) described in subsection (a) that does  
4 not provide coverage for benefits outside of a network shall  
5 ensure that such provider network is adequate to ensure  
6 enrollee access to prosthetic and custom orthotic devices  
7 and related services provided by appropriately credentialed  
8 practitioners and accredited suppliers of prosthetics and  
9 custom orthotics.

10     “(c) ADDITIONAL REQUIREMENTS.—

11     “(1) PRIOR AUTHORIZATION.—In the case of a  
12 group health plan (or health insurance coverage of-  
13 fered in connection with a group health plan) that  
14 requires, as a condition of coverage or payment for  
15 prosthetics or custom orthotics (or both) under the  
16 plan (or coverage), prior authorization, such prior  
17 authorization must be required in the same manner  
18 as prior authorization is required by the plan (or  
19 coverage) as a condition of coverage or payment for  
20 all similar medical and surgical benefits provided  
21 under the plan (or coverage).

22     “(2) LIMITATION ON BENEFITS.—Coverage for  
23 required benefits for prosthetics and custom  
24 orthotics under this section may be limited to cov-  
25 erage of the most appropriate device or component

1 model that meets the medical requirements of the  
2 patient, as determined by the treating physician of  
3 the patient involved.

4       “(3) COVERAGE FOR REPAIR OR REPLACEMENT.—Benefits for prosthetics and custom  
5 orthotics required under this section shall include  
6 coverage for the repair or replacement of prosthetics  
7 and custom orthotics, if the repair or replacement is  
8 due to normal wear and tear, irreparable damage, a  
9 change in the condition of the patient as determined  
10 by the treating physician, or otherwise determined  
11 appropriate by the treating physician of the patient  
12 involved.

13       “(d) DEFINITIONS.—In this section:

14           “(1) PROSTHETICS.—The term ‘prosthetics’  
15 means those devices and components that may be  
16 used to replace, in whole or in part, an arm or leg,  
17 as well as the services required to do so and includes  
18 external breast prostheses incident to mastectomy  
19 resulting from breast cancer.

20           “(2) CUSTOM ORTHOTICS.—The term ‘custom  
21 orthotics’ means the following:

22              “(A) Custom-fabricated orthotics and re-  
23 lated services, which include custom-fabricated  
24 devices that are individually made for a specific

1           patient, as well as all services and supplies that  
2           are medically necessary for the effective use of  
3           the orthotic device and instructing the patient  
4           in the use of the device. No other patient would  
5           be able to use this particular orthosis. A cus-  
6           tom-fabricated orthosis is a device which is fab-  
7           ricated based on clinically derived and rectified  
8           castings, tracings, measurements, or other im-  
9           ages (such as x-rays) of the body part. The fab-  
10          rication may involve using calculations, tem-  
11          plates and component parts. This process re-  
12          quires the use of basic materials and involves  
13          substantial work such as vacuum forming, cut-  
14          ting, bending, molding, sewing, drilling and fin-  
15          ishing prior to fitting on the patient. Custom-  
16          fabricated devices may be furnished only by an  
17          appropriately credentialed (certified or licensed)  
18          practitioner and accredited supplier in Orthotics  
19          or Prosthetics. Such devices and related serv-  
20          ices are represented by the set of L-codes under  
21          the Healthcare Common Procedure Coding Sys-  
22          tem describing this care listed on the date of  
23          enactment of this section in Centers for Medi-  
24          care & Medicaid Services Transmittal 656.

1                 “(B) Custom-fitted high orthotics and re-  
2                 lated services, which include prefabricated de-  
3                 vices that are manufactured with no specific pa-  
4                 tient in mind, but that are appropriately sized,  
5                 adapted, modified, and configured (with the re-  
6                 quired tools and equipment) to a specific pa-  
7                 tient in accordance with a prescription, and  
8                 which no other patient would be able to use, as  
9                 well as all services and supplies that are medi-  
10                 cally necessary for the effective use of the  
11                 orthotic device and instructing the patient in  
12                 the use of the device. Custom-fitted high devices  
13                 may be furnished only by an appropriately  
14                 credentialed (certified or licensed) practitioner  
15                 and accredited supplier in Orthotics or Pro-  
16                 sthetics. Such devices and related services are  
17                 represented by the existing set of L-codes under  
18                 the Healthcare Common Procedure Coding Sys-  
19                 tem describing this care listed on the date of  
20                 enactment of this section in Centers for Medi-  
21                 care & Medicaid Services Transmittal 656.

22                 For purposes of subparagraphs (A) and (B), Centers  
23                 for Medicare & Medicaid Services Transmittal 656,  
24                 upon modification or reissuance by the Centers for  
25                 Medicare & Medicaid Services to reflect new code ad-

1 ditions and coding changes for prosthetics and cus-  
2 tom orthotics, shall be the version of the Transmittal  
3 used for purposes of such subparagraphs.

4 “(3) FINANCIAL REQUIREMENTS.—The term  
5 ‘financial requirements’ includes deductibles, coin-  
6 surance, co-payments, other cost sharing, and limita-  
7 tions on the total amount that may be paid by a  
8 participant or beneficiary with respect to benefits  
9 under the plan or health insurance coverage.

10 “(4) TREATMENT LIMITATIONS.—The term  
11 ‘treatment limitations’ includes limits on the fre-  
12 quency of treatment, number of visits, specific pre-  
13 scribed components, limits that are more broadly ap-  
14 plicable to durable medical equipment, or other simi-  
15 lar limits on the amount, duration, or scope of treat-  
16 ment.

17 “(e) DIFFERENTIATION FROM DURABLE MEDICAL  
18 EQUIPMENT.—For purposes of this section, prosthetics  
19 and custom orthotics shall be treated as distinct from du-  
20 rable medical equipment.”.

21 (2) CLERICAL AMENDMENT.—The table of con-  
22 tents in section 1 of the Employee Retirement In-  
23 come Security Act of 1974 is amended by inserting  
24 after the item relating to section 714 the following:

“Sec. 715. Additional market reforms.

“Sec. 716. Prosthetics and custom orthotics parity.”.

1           (b) PHSA.—

2               (1) IN GENERAL.—Title XXVII of the Public  
3               Health Service Act is amended by inserting after  
4               section 2728 of such Act (42 U.S.C. 300gg–28), as  
5               redesignated by section 1001(2) of the Patient Pro-  
6               tection and Affordable Care Act (Public Law 111–  
7               148), the following:

8               **“SEC. 2729. PROSTHETICS AND CUSTOM ORTHOTICS PAR-  
9               ITY.**

10             “(a) IN GENERAL.—In the case of a group health  
11             plan, or a health insurance issuer offering group or indi-  
12             vidual health insurance coverage, that provides medical  
13             and surgical benefits and also provides benefits for pros-  
14             thetics or custom orthotics (as defined under paragraphs  
15             (1) and (2) of subsection (e)) (or both)—

16               “(1) such benefits for prosthetics or custom  
17             orthotics (or both) under the plan or coverage shall  
18             be provided under terms and conditions that are no  
19             less favorable than the terms and conditions applica-  
20             ble to substantially all medical and surgical benefits  
21             provided under the plan or coverage;

22               “(2) such benefits for prosthetics or custom  
23             orthotics (or both) under the plan or coverage may  
24             not be subject to separate financial requirements (as  
25             defined in subsection (e)(2)) that are applicable only

1       with respect to such benefits, and any financial re-  
2       quirements applicable to such benefits shall be no  
3       more restrictive than the financial requirements ap-  
4       plicable to substantially all medical and surgical ben-  
5       efits provided under the plan or coverage; and

6           “(3) any treatment limitations (as defined in  
7       subsection (e)(3)) applicable to such benefits for  
8       prosthetics or custom orthotics (or both) under the  
9       plan or coverage may not be more restrictive than  
10      the treatment limitations applicable to substantially  
11      all medical and surgical benefits provided under the  
12      plan or coverage.

13       “(b) PATIENT ACCESS.—A group health plan, or  
14      health insurance issuer offering group or individual health  
15      insurance coverage, described in subsection (a) that does  
16      not provide coverage for benefits outside of a network shall  
17      ensure that such provider network is adequate to ensure  
18      enrollee access to prosthetic and custom orthotic devices  
19      and related services provided by appropriately credentialed  
20      practitioners and accredited suppliers of prosthetics and  
21      custom orthotics.

22       “(c) ADDITIONAL REQUIREMENTS.—

23           “(1) PRIOR AUTHORIZATION.—In the case of a  
24      group health plan, or health insurance issuer offer-  
25      ing group or individual health insurance coverage,

1       that requires, as a condition of coverage or payment  
2       for prosthetics or custom orthotics (or both) under  
3       the plan or coverage, prior authorization, such prior  
4       authorization must be required in the same manner  
5       as prior authorization is required by the plan or cov-  
6       erage as a condition of coverage or payment for all  
7       similar medical and surgical benefits provided under  
8       the plan or coverage.

9           “(2) LIMITATION ON BENEFITS.—Coverage for  
10      required benefits for prosthetics and custom  
11      orthotics under this section may be limited to cov-  
12      erage of the most appropriate device or component  
13      model that adequately meets the medical require-  
14      ments of the patient, as determined by the treating  
15      physician of the patient involved.

16           “(3) COVERAGE FOR REPAIR OR REPLACE-  
17      MENT.—Benefits for prosthetics and custom  
18      orthotics required under this section shall include  
19      coverage for the repair or replacement of prosthetics  
20      and custom orthotics, if the repair or replacement is  
21      due to normal wear and tear, irreparable damage, a  
22      change in the condition of the patient as determined  
23      by the treating physician, or otherwise determined  
24      appropriate by the treating physician of the patient  
25      involved.

1       “(d) DEFINITIONS.—In this section:

2           “(1) PROSTHETICS.—The term ‘prosthetics’  
3 means those devices and components that may be  
4 used to replace, in whole or in part, an arm or leg,  
5 as well as the services required to do so and includes  
6 external breast prostheses incident to mastectomy  
7 resulting from breast cancer.

8           “(2) CUSTOM ORTHOTICS.—The term ‘custom  
9 orthotics’ means the following:

10           “(A) Custom-fabricated orthotics and re-  
11 lated services, which include custom-fabricated  
12 devices that are individually made for a specific  
13 patient, as well as all services and supplies that  
14 are medically necessary for the effective use of  
15 the orthotic device and instructing the patient  
16 in the use of the device. No other patient would  
17 be able to use this particular orthosis. A cus-  
18 tom-fabricated orthosis is a device which is fab-  
19 ricated based on clinically derived and rectified  
20 castings, tracings, measurements, or other im-  
21 ages (such as x-rays) of the body part. The fab-  
22 rication may involve using calculations, tem-  
23 plates and component parts. This process re-  
24 quires the use of basic materials and involves  
25 substantial work such as vacuum forming, cut-

1           ting, bending, molding, sewing, drilling and fin-  
2           ishing prior to fitting on the patient. Custom-  
3           fabricated devices may be furnished only by an  
4           appropriately credentialed (certified or licensed)  
5           practitioner and accredited supplier in Orthotics  
6           or Prosthetics. Such devices and related serv-  
7           ices are represented by the set of L-codes under  
8           the Healthcare Common Procedure Coding Sys-  
9           tem describing this care listed on the date of  
10          enactment of this section in Centers for Medi-  
11          care & Medicaid Services Transmittal 656.

12           “(B) Custom-fitted high orthotics and re-  
13          lated services, which include prefabricated de-  
14          vices that are manufactured with no specific pa-  
15          tient in mind, but that are appropriately sized,  
16          adapted, modified, and configured (with the re-  
17          quired tools and equipment) to a specific pa-  
18          tient in accordance with a prescription, and  
19          which no other patient would be able to use, as  
20          well as all services and supplies that are medi-  
21          cally necessary for the effective use of the  
22          orthotic device and instructing the patient in  
23          the use of the device. Custom-fitted high devices  
24          may be furnished only by an appropriately  
25          credentialed (certified or licensed) practitioner

1           and accredited supplier in Orthotics or Prosthetics. Such devices and related services are  
2           represented by the existing set of L-codes under  
3           the Healthcare Common Procedure Coding System  
4           describing this care listed on the date of  
5           enactment of this section in Centers for Medicare & Medicaid Services Transmittal 656.

6  
7  
8           For purposes of subparagraphs (A) and (B), Centers  
9           for Medicare & Medicaid Services Transmittal 656,  
10          upon modification or reissuance by the Centers for  
11          Medicare & Medicaid Services to reflect new code ad-  
12          ditions and coding changes for prosthetics and cus-  
13          tom orthotics, shall be the version of the Transmittal  
14          used for purposes of such subparagraphs.

15           “(3) FINANCIAL REQUIREMENTS.—The term  
16          ‘financial requirements’ includes deductibles, coin-  
17          surance, co-payments, other cost sharing, and limita-  
18          tions on the total amount that may be paid by a  
19          participant or beneficiary with respect to benefits  
20          under the plan or health insurance coverage.

21           “(4) TREATMENT LIMITATIONS.—The term  
22          ‘treatment limitations’ includes limits on the fre-  
23          quency of treatment, number of visits, specific pre-  
24          scribed components, and limits that are more broad-  
25          ly applicable to durable medical equipment, or other

1 similar limits on the amount, duration, or scope of  
2 treatment.

3 “(e) DIFFERENTIATION FROM DURABLE MEDICAL  
4 EQUIPMENT.—For purposes of this section, prosthetics  
5 and custom orthotics shall be treated as distinct from du-  
6 rable medical equipment.”.

7 (2) APPLICATION TO INDIVIDUAL HEALTH IN-  
8 SURANCE COVERAGE BEFORE 2014.—For purposes of  
9 applying section 2729 of the Public Health Service  
10 Act, as inserted by paragraph (1), to individual  
11 health insurance coverage before 2014, the provi-  
12 sions of such section shall be treated as also in-  
13 cluded under part B of title XXVII of the Public  
14 Health Service Act.

15 (c) INTERNAL REVENUE CODE.—Subchapter B of  
16 chapter 100 of subtitle K of the Internal Revenue Code  
17 of 1986 is amended by adding after section 9813 the fol-  
18 lowing:

19 **“SEC. 9814. PROSTHETICS AND CUSTOM ORTHOTICS FAIR-**  
20 **NESS IN COVERAGE.**

21 “(a) IN GENERAL.—In the case of a group health  
22 plan (or health insurance coverage offered in connection  
23 with a group health plan) that provides medical and sur-  
24 gical benefits and also provides benefits for prosthetics or

1 custom orthotics (as defined under paragraphs (1) and (2)  
2 of subsection (e)) (or both)—

3           “(1) such benefits for prosthetics or custom  
4 orthotics (or both) under the plan (or coverage) shall  
5 be provided under terms and conditions that are no  
6 less favorable than the terms and conditions applica-  
7 ble to substantially all medical and surgical benefits  
8 provided under the plan (or coverage);

9           “(2) such benefits for prosthetics or custom  
10 orthotics (or both) under the plan (or coverage) may  
11 not be subject to separate financial requirements (as  
12 defined in subsection (e)(2)) that are applicable only  
13 with respect to such benefits, and any financial re-  
14 quirements applicable to such benefits shall be no  
15 more restrictive than the financial requirements ap-  
16 plicable to substantially all medical and surgical ben-  
17 efits provided under the plan (or coverage); and

18           “(3) any treatment limitations (as defined in  
19 subsection (e)(3)) applicable to such benefits for  
20 prosthetics or custom orthotics (or both) under the  
21 plan (or coverage) may not be more restrictive than  
22 the treatment limitations applicable to substantially  
23 all medical and surgical benefits provided under the  
24 plan (or coverage).

1       “(b) PATIENT ACCESS.—A group health plan (or  
2 health insurance coverage offered in connection with a  
3 group health plan) described in subsection (a) that does  
4 not provide coverage for benefits outside of a network shall  
5 ensure that such provider network is adequate to ensure  
6 enrollee access to prosthetic and custom orthotic devices  
7 and related services provided by appropriately credentialed  
8 practitioners and accredited suppliers of prosthetics and  
9 custom orthotics.

10     “(c) ADDITIONAL REQUIREMENTS.—

11     “(1) PRIOR AUTHORIZATION.—In the case of a  
12 group health plan (or health insurance coverage of-  
13 fered in connection with a group health plan) that  
14 requires, as a condition of coverage or payment for  
15 prosthetics or custom orthotics (or both) under the  
16 plan (or coverage), prior authorization, such prior  
17 authorization must be required in the same manner  
18 as prior authorization is required by the plan (or  
19 coverage) as a condition of coverage or payment for  
20 all similar medical and surgical benefits provided  
21 under the plan (or coverage).

22     “(2) LIMITATION ON BENEFITS.—Coverage for  
23 required benefits for prosthetics and custom  
24 orthotics under this section may be limited to cov-  
25 erage of the most appropriate device or component

1 model that meets the medical requirements of the  
2 patient, as determined by the treating physician of  
3 the patient involved.

4       “(3) COVERAGE FOR REPAIR OR REPLACEMENT.—Benefits for prosthetics and custom  
5 orthotics required under this section shall include  
6 coverage for the repair or replacement of prosthetics  
7 and custom orthotics, if the repair or replacement is  
8 due to normal wear and tear, irreparable damage, a  
9 change in the condition of the patient as determined  
10 by the treating physician, or otherwise determined  
11 appropriate by the treating physician of the patient  
12 involved.

14       “(4) ASSISTANCE TO ENROLLEES.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall provide assistance to enrollees under plans or coverage to which the amendment made by section 3 apply with any questions or problems with respect to compliance with the requirements of such amendment.

21       “(5) AUDITS.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall provide for the conduct of random audits of group health plans (and health insurance coverage offered in connection with such

1 plans) to ensure that such plans (or coverage) are in  
2 compliance with the amendments made by section  
3 (3).

4 “(d) DEFINITIONS.—In this section:

5       “(1) PROSTHETICS.—The term ‘prosthetics’  
6 means those devices and components that may be  
7 used to replace, in whole or in part, an arm or leg,  
8 as well as the services required to do so and includes  
9 external breast prostheses incident to mastectomy  
10 resulting from breast cancer.

11       “(2) CUSTOM ORTHOTICS.—The term ‘custom  
12 orthotics’ means the following:

13           “(A) Custom-fabricated orthotics and re-  
14 lated services, which include custom-fabricated  
15 devices that are individually made for a specific  
16 patient, as well as all services and supplies that  
17 are medically necessary for the effective use of  
18 the orthotic device and instructing the patient  
19 in the use of the device. No other patient would  
20 be able to use this particular orthosis. A cus-  
21 tom-fabricated orthosis is a device which is fab-  
22 ricated based on clinically derived and rectified  
23 castings, tracings, measurements, or other im-  
24 ages (such as x-rays) of the body part. The fab-  
25 rication may involve using calculations, tem-

1 plates and component parts. This process re-  
2 quires the use of basic materials and involves  
3 substantial work such as vacuum forming, cut-  
4 ting, bending, molding, sewing, drilling and fin-  
5 ishing prior to fitting on the patient. Custom-  
6 fabricated devices may be furnished only by an  
7 appropriately credentialed (certified or licensed)  
8 practitioner and accredited supplier in Orthotics  
9 or Prosthetics. Such devices and related serv-  
10 ices are represented by the set of L-codes under  
11 the Healthcare Common Procedure Coding Sys-  
12 tem describing this care listed on the date of  
13 enactment of this section in Centers for Medi-  
14 care & Medicaid Services Transmittal 656.

15 “(B) Custom-fitted high orthotics and re-  
16 lated services, which include prefabricated de-  
17 vices that are manufactured with no specific pa-  
18 tient in mind, but that are appropriately sized,  
19 adapted, modified, and configured (with the re-  
20 quired tools and equipment) to a specific pa-  
21 tient in accordance with a prescription, and  
22 which no other patient would be able to use, as  
23 well as all services and supplies that are medi-  
24 cally necessary for the effective use of the  
25 orthotic device and instructing the patient in

1           the use of the device. Custom-fitted high devices  
2       may be furnished only by an appropriately  
3       credentialed (certified or licensed) practitioner  
4       and accredited supplier in Orthotics or Pro-  
5       sthetics. Such devices and related services are  
6       represented by the existing set of L-codes under  
7       the Healthcare Common Procedure Coding Sys-  
8       tem describing this care listed on the date of  
9       enactment of this section in Centers for Medi-  
10      care & Medicaid Services Transmittal 656.

11      For purposes of subparagraphs (A) and (B), Centers  
12      for Medicare & Medicaid Services Transmittal 656,  
13      upon modification or reissuance by the Centers for  
14      Medicare & Medicaid Services to reflect new code ad-  
15      ditions and coding changes for prosthetics and cus-  
16      tom orthotics, shall be the version of the Transmittal  
17      used for purposes of such subparagraphs.

18           “(3) FINANCIAL REQUIREMENTS.—The term  
19       ‘financial requirements’ includes deductibles, coin-  
20       surance, co-payments, other cost sharing, and limita-  
21       tions on the total amount that may be paid by a  
22       participant or beneficiary with respect to benefits  
23       under the plan or health insurance coverage.

24           “(4) TREATMENT LIMITATIONS.—The term  
25       ‘treatment limitations’ includes limits on the fre-

1       quency of treatment, number of visits, specific pre-  
2       scribed components, or other similar limits on the  
3       scope or duration of treatment.

4       “(e) DIFFERENTIATION FROM DURABLE MEDICAL  
5 EQUIPMENT.—For purposes of this section, prosthetics  
6 and custom orthotics shall be treated as distinct from du-  
7 rable medical equipment.”.

8       (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply with respect to plan years begin-  
10 ning on or after the date of the enactment of this section  
11 and with respect to health insurance coverage issued on  
12 or after such date.

13 **SEC. 4. UPDATING STANDARD DEFINITIONS TO INCLUDE**  
14 **PROSTHETICS AND CUSTOM ORTHOTICS.**

15       (a) IN GENERAL.—Section 2715(g)(3) of the Public  
16 Health Service Act (42 U.S.C. 300gg–15(g)(3)) is amend-  
17 ed by inserting “prosthetics, custom orthotics,” after  
18 “emergency medical transportation.”.

19       (b) PROSTHETICS; CUSTOM ORTHOTICS.—In devel-  
20 oping standards for the definitions of the terms “pros-  
21 thetics” and “custom orthotics” pursuant to the amend-  
22 ment made by subsection (a), the Secretary shall ensure  
23 that such definitions are consistent with the definitions of  
24 such terms in section 2729(d) of the Public Health Service  
25 Act (as added by section 3(b) of this Act).

1     **SEC. 5. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.**

2         (a) ASSISTANCE TO ENROLLEES.—The Secretary of  
3     Labor, in consultation with the Secretary of Health and  
4     Human Services, shall provide assistance to enrollees  
5     under group health plans (and health insurance coverage  
6     offered in connection with such plans) to which the amend-  
7     ments made by section 3 apply with any questions or prob-  
8     lems with respect to compliance with the requirements of  
9     such amendments.

10         (b) AUDITS.—The Secretary of Labor, in consulta-  
11     tion with the Secretary of Health and Human Services,  
12     shall provide for the conduct of random audits of group  
13     health plans (and health insurance coverage offered in  
14     connection with such plans) to ensure that such plans (or  
15     coverage) are in compliance with the amendments made  
16     by section 3.

17         (c) REGULATIONS.—Not later than 1 year after the  
18     date of the enactment of this Act, the Secretary of Labor,  
19     in consultation with the Secretary of Health and Human  
20     Services, shall promulgate final regulations to carry out  
21     this Act and the amendments made by this Act.

22         (d) DEFINITIONS.—In this section:

23                 (1) GROUP HEALTH PLAN.—The term “group  
24     health plan” has the meaning given such term in  
25     section 733(a) of the Employee Retirement and In-  
26     come Security Act of 1974 (29 U.S.C. 1191b(a)).

1                             (2) HEALTH INSURANCE COVERAGE.—The term  
2                             “health insurance coverage” has the meaning given  
3                             such term in section 733(b)(1) of such Act (29  
4                             U.S.C. 1191b(b)(1)).

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